

AMENDED IN ASSEMBLY MAY 13, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 624**

**Introduced by Assembly Member Lieber**

February 19, 2003

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An act to amend Sections 798.55, 798.58, and 798.74 of the Civil Code, relating to mobilehomes.

### LEGISLATIVE COUNSEL'S DIGEST

AB 624, as amended, Lieber. Mobilehome parks.

(1) Existing law defines and regulates the terms of a rental agreement for a mobilehome park. Existing law defines a homeowner in a mobilehome park and a resident of a mobilehome park differently. Existing law makes a statement of legislative findings regarding the need of mobilehome owners for unique protection from actual or constructive eviction. Existing law permits a mobilehome park tenancy to be terminated only for specified reasons. Certain provisions address the termination of the tenancy of a homeowner in the park for the nonpayment of rent, utility charges, or reasonable incidental expenses. Existing law establishes a written notice process, which is directed to the homeowner, as well as the legal owner, junior lienholder, and registered owner of the mobilehome, and this process applies when a lease is terminated or not renewed, as specified.

This bill would ~~require that a tenancy be reinstated for at least 6 months at the same rent or upon the same terms, following a judgment in an unlawful detainer case~~ *permit a homeowner, following the*

*issuance of a judgment in an unlawful detainer case, to make an application to the court to reinstate the tenancy for a period of not more than six months from the entry of judgment, at the same rent or on the same terms, if specified conditions are met. The bill would provide that a court is not required to reinstate a homeowner's tenancy if it would create substantial prejudice to the plaintiff in the unlawful detainer case.*

(2) Existing law establishes the sole reasons that a mobilehome park tenancy may be terminated, and prohibits the termination of a tenancy for the purpose of making the homeowner's site available to a person who proposes to purchase or rent a mobilehome from the owner of the park.

This bill would prohibit management of a mobilehome park from terminating a tenancy based upon facts which the landlord does not have reasonable cause to believe true ~~or based upon a legal theory that is untenable under the facts known to the landlord~~. The bill would provide that a person who violates these provisions is liable for the actual damages suffered by any aggrieved party or for statutory damages of \$5,000, whichever is greater, and for attorneys' fees and costs as may be determined by the court. ~~The bill would also permit a court to also award punitive damages, as specified.~~

(3) Existing law grants the management of a mobilehome park the right of prior approval of a purchaser of a mobilehome that will remain in the park, as specified.

This bill would restrict the right of prior approval by management with regard to the amount of gross monthly income that the management may require a purchaser to have, as specified. *The bill would also specify that it does not prohibit management from using specified items of information, including the purchaser's credit history or history with regard to past rental obligations, in determining whether a purchaser has the financial ability to pay the rent and charges of the park.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 798.55 of the Civil Code is amended to  
2 read:

1     798.55. (a) The Legislature finds and declares that, because  
2 of the high cost of moving mobilehomes, the potential for damage  
3 resulting therefrom, the requirements relating to the installation of  
4 mobilehomes, and the cost of landscaping or lot preparation, it is  
5 necessary that the owners of mobilehomes occupied within  
6 mobilehome parks be provided with the unique protection from  
7 actual or constructive eviction afforded by the provisions of this  
8 chapter.

9     (b) The management may not terminate or refuse to renew a  
10 tenancy, except for a reason specified in this article and upon the  
11 giving of written notice to the homeowner in the manner  
12 prescribed by Section 1162 of the Code of Civil Procedure, to  
13 remove the mobilehome from the park within a period of not less  
14 than 60 days, which period shall be specified in the notice. A copy  
15 of this notice shall be sent to the legal owner, as defined in Section  
16 18005.8 of the Health and Safety Code, each junior lienholder, as  
17 defined in Section 18005.3 of the Health and Safety Code, and the  
18 registered owner of the mobilehome, if other than the homeowner,  
19 by United States mail within 10 days after notice to the  
20 homeowner. The copy may be sent by regular mail or by certified  
21 or registered mail with return receipt requested, at the option of the  
22 management. If the homeowner has not paid the rent due within  
23 three days after notice to the homeowner, and if the first notice was  
24 not sent by certified or registered mail with return receipt  
25 requested, a copy of the notice shall again be sent to the legal  
26 owner, each junior lienholder, and the registered owner, if other  
27 than the homeowner, by certified or registered mail with return  
28 receipt requested within 10 days after notice to the homeowner.  
29 Copies of the notice shall be addressed to the legal owner, each  
30 junior lienholder, and the registered owner at their addresses, as set  
31 forth in the registration card specified in Section 18091.5 of the  
32 Health and Safety Code.

33     (c) The resident of a mobilehome that remains in the  
34 mobilehome park after service of the notice to remove the  
35 mobilehome shall continue to be subject to this chapter and the  
36 rules and regulations of the park, including rules regarding  
37 maintenance of the space.

38     (d) No lawful act by the management to enforce this chapter or  
39 the rules and regulations of the park may be deemed or construed  
40 to waive or otherwise affect the notice to remove the mobilehome.

(e) (1) Notwithstanding any other provision of law, following the issuance of a judgment in an unlawful detainer case filed in accordance with the requirements of this chapter, ~~the tenancy shall be reinstated for not less than six months at the same rent or upon the same terms if all of the following conditions are met:~~

~~(1) The homeowner informs the management in writing of the homeowner's intention to sell the home or move it.~~

~~(2) The judgment in the unlawful detainer action was not based on subdivision (a), (b), or (c) of Section 798.56.~~

~~(3) The homeowner makes an application to the court for relief under this section. The homeowner may apply for relief at any time prior to restoration of the premises to the landlord, park owner, or management. The homeowner shall apply for relief by submitting a petition setting forth compliance with this subdivision and the petition shall be verified by the applicant. Notice of the application, with a copy of the petition, shall be served at least five days prior to the hearing on the plaintiff in the judgment, who may appear and contest the application. Alternatively, a person appearing without an attorney may make the application orally, if the plaintiff is either present and has an opportunity to contest, or has been given ex parte notice of the hearing and the purpose of the oral application. In no case may the application be granted unless full payment of the past due rent is made. Failure to make subsequent payments of rent, as they come due, shall be an appropriate basis for termination of this relief. the homeowner may make an application to the court for relief under this section. The homeowner may apply for relief at any time prior to restoration of the premises to the management. In applying for relief, the homeowner shall do either of the following:~~

~~(A) The homeowner may submit a petition that sets forth facts indicating compliance with this section, and the petition shall be verified by the applicant. Notice of the application, with a copy for the petition, shall be served on the plaintiff in the unlawful detainer case at least five days prior to the hearing on the homeowner's petition. The plaintiff in the unlawful detainer case may appear and contest the application.~~

~~(B) A homeowner appearing without an attorney at the hearing at which the judgment for unlawful detainer is issued may make an application for relief under this section orally, if the plaintiff is present and has an opportunity to contest.~~

1 (2) *If the court finds that the following conditions are met, the*  
2 *court shall reinstate the tenancy for a period of not more than six*  
3 *months from the entry of judgment of unlawful detainer, at the same*  
4 *rent or upon the same terms, and shall stay the writ of possession*  
5 *for that time, unless the court finds that the reinstatement would*  
6 *create substantial prejudice to the plaintiff:*

7 (A) *The homeowner has informed the management in writing*  
8 *of the homeowner's intention to sell the home or move it.*

9 (B) *The judgment in the unlawful detainer action was not based*  
10 *on subdivision (a), (b), (c), (f), or (g) of Section 798.56.*

11 (C) *Full payment of any past due rent and accrued utility*  
12 *charges has been made.*

13 (3) *If, after the tenancy has been reinstated pursuant to this*  
14 *section, the homeowner fails to make subsequent payments of rent*  
15 *as they come due, the plaintiff in the unlawful detainer case may*  
16 *make an ex parte motion that the stay of the writ of possession be*  
17 *lifted. The court shall grant that motion upon finding that the*  
18 *tenant has failed to make required rent payments.*

19 SEC. 2. Section 798.58 of the Civil Code is amended to read:

20 798.58. (a) Tenancy may only be terminated for reasons  
21 contained in Section 798.56, and a tenancy may not be terminated  
22 for the purpose of making a homeowner's site available for a  
23 person who purchased or proposes to purchase, or rents or  
24 proposes to rent, a mobilehome from the owner of the park or the  
25 owner's agent.

26 (b) (1) Management may not take any action to terminate a  
27 tenancy, including serving any eviction notice or bringing any  
28 action to recover possession of a rental unit or a site, based upon  
29 facts which the landlord does not have reasonable cause to believe  
30 true ~~or based upon a legal theory that is untenable under the facts~~  
31 ~~known to the landlord.~~

32 (2) A person who violates ~~or incites another person to violate~~  
33 ~~this subdivision is liable for each and every offense for the actual~~  
34 ~~damages suffered by any aggrieved party or for statutory damages~~  
35 ~~of five thousand dollars (\$5,000), whichever is greater, and for~~  
36 ~~attorneys' fees and costs as may be determined by the court. The~~  
37 ~~court may also award punitive damages to a plaintiff in a proper~~  
38 ~~case, as defined by Section 3294. The standard of proof for~~  
39 ~~awarding punitive damages is clear and convincing evidence.~~

40 SEC. 3. Section 798.74 of the Civil Code is amended to read:

1 798.74. (a) (1) The management may require the right of  
2 prior approval of a purchaser of a mobilehome that will remain in  
3 the park and that the selling homeowner or his or her agent give  
4 notice of the sale to the management before the close of the sale.  
5 Approval cannot be withheld if the purchaser has the financial  
6 ability to pay the rent and charges of the park unless the  
7 management reasonably determines that, based on the purchaser's  
8 prior tenancies, he or she will not comply with the rules and  
9 regulations of the park.

10 (2) The management's right of prior approval of a purchaser is  
11 subject to the following requirements:

12 (A) In determining whether the purchaser has the financial  
13 ability to pay the rent and charges of the park, the management  
14 may not require the purchaser to submit copies of any personal  
15 income tax returns in order to obtain approval for residency in the  
16 park. However, management may require the purchaser to  
17 document the amount and source of his or her gross monthly  
18 income or means of financial support.

19 (B) The management may not require that a purchaser have a  
20 gross monthly income that is greater than three times the sum of  
21 both of the following:

22 (i) The amount of the initial space rent, one month of utility  
23 charges, and one month of other charges of the park that the  
24 purchaser would be obligated to pay.

25 (ii) The monthly loan payment on the mobilehome that the  
26 purchaser would be obligated to pay if the purchase of the  
27 mobilehome is completed.

28 (C) *This subdivision does not prohibit management from using*  
29 *information regarding a purchaser's bankruptcy history, credit*  
30 *history, or history with regard to past rental obligations, in*  
31 *determining whether the purchaser has the financial ability to pay*  
32 *the rent and charges of the park.*

33 (3) Upon request of any prospective homeowner who proposes  
34 to purchase a mobilehome that will remain in the park,  
35 management shall inform that person of the information  
36 management will require in order to determine if the person will  
37 be acceptable as a homeowner in the park.

38 (4) Within 15 business days of receiving all of the information  
39 requested from the prospective homeowner, the management shall  
40 notify the seller and the prospective homeowner, in writing, of

1 either acceptance or rejection of the application, and the reason if  
2 rejected. During this 15-day period the prospective homeowner  
3 shall comply with the management's request, if any, for a personal  
4 interview. If the approval of a prospective homeowner is withheld  
5 for any reason other than those stated in this article, the  
6 management or owner may be held liable for all damages  
7 proximately resulting therefrom.

8 (b) If the management collects a fee or charge from a  
9 prospective purchaser of a mobilehome in order to obtain a  
10 financial report or credit rating, the full amount of the fee or charge  
11 shall be credited towards payment of the first month's rent for that  
12 mobilehome purchaser. If, for whatever reason, the prospective  
13 purchaser is rejected by the management, the management shall  
14 refund to the prospective purchaser the full amount of that fee or  
15 charge within 30 days from the date of rejection. If the prospective  
16 purchaser is approved by the management, but, for whatever  
17 reason, the prospective purchaser elects not to purchase the  
18 mobilehome, the management may retain the fee, or a portion  
19 thereof, to defray its administrative costs under this section.

